

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel.  
THOMAS J. MILLER,  
99AG25112,

Applicant,

v.

AMERICA WORKSHOPS, LLC,  
an Arizona limited liability corporation,

and

GEORGE THOMAS,

Respondents.

Equity No. CE

72667

**APPLICATION TO ENFORCE  
ATTORNEY GENERAL'S  
CONSUMER FRAUD  
ACT SUBPOENA**

CLERK DISTRICT COURT

12 OCT -5 AM 8:02

FILED  
POLK COUNTY, IA

The State of Iowa ex rel. Attorney General Thomas J. Miller, through Assistant Attorney General Steve St. Clair, states as follows:

**INTRODUCTION**

America Workshops, LLC ("America Workshops") is a for-profit Arizona business that sells various household items, including, for example, garbage bags, light bulbs, and kitchen utensils, from the Phoenix area. George Thomas owns and controls America Workshops. America Workshops obtains orders by telephoning Iowans and by making various claims about its status as an employer of disabled and/or disadvantaged individuals and/or military veterans, in an effort to evoke sympathy and induce consumers to spend more than they might have otherwise for comparable items.

Despite a commitment earlier this year by America Workshops to place all of its Iowa customers on a Do Not Call List, in August of 2012 a representative of America Workshops directed a call to an elderly woman who had evidently been previously

victimized by America Workshops in 2011. The August 2012 call was recorded, and the recording reveals a high-pressure sales pitch emphasizing the need for the consumer to pay about \$190.00 for light bulbs in order to provide shelter to a veteran and his daughter. To investigate this call, the Attorney General served a Consumer Fraud Act subpoena on each Respondent, requiring the production of information relating to the August 2012 call referred to above. The subpoena required a response on or before September 28, 2012, but neither Respondent has provided any response to date.

Respondents should be ordered to respond to the subpoena, and/or should be barred by court order from making further solicitation calls into Iowa until they have provided a full and proper response.

#### **PARTIES AND VENUE**

1. Thomas J. Miller is the Attorney General of the State of Iowa, and is expressly authorized by Iowa Code § 714.16 (6) & (7) (2011) of the Consumer Fraud Act to bring this action on behalf of the State of Iowa.

2. America Workshops, LLC is an Arizona limited liability corporation.

3. George Thomas owns and controls America Workshops, LLC.

4. Venue is proper in Polk County pursuant to Iowa Code § 714.16 (6) & (10).

#### **JURISDICTION**

5. The Iowa Consumer Fraud Act, Iowa Code § 714.16 (2)(a) (“the Consumer Fraud Act”) provides in pertinent part:

*The act, use or employment by a person of an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation, or the concealment, suppression or omission of a material fact with intent that others rely upon the concealment, suppression, or omission, in connection with the lease, sale, or advertisement of any merchandise or the solicitation of contributions for charitable purposes, whether or not a*

*person has in fact been misled, deceived, or damaged, in an unlawful practice.*

6. Iowa Code § 714.16 (1) provides the following definitions:

*(f) "Deception" means an act or practice which has the tendency or capacity to mislead a substantial number of consumers as to a material fact or facts.*

*(n) "Unfair practice" means an act or practice which causes substantial unavoidable injury to consumers that is not outweighed by any consumer or competitive benefits which the practice produces.*

7. Iowa Code § 714.16 (3) provides as follows:

*When it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this section or when the attorney general believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or about to engage in, any such practice, the attorney general may: (a) Require such person to file on such forms as the attorney general may prescribe a statement or report in writing under oath or otherwise, as to all the facts and circumstances concerning the sale or advertisement of merchandise by such person, and such other data and information as the attorney general may deem necessary; ...*

8. Iowa Code § 714.16 (6) provides:

*If a person fails or refuses to file a statement or report, or obey any subpoena issued by the attorney general, the attorney general may, after notice, apply to the Polk county district court... and, after hearing, request an order:*

*a) Granting injunctive relief, restraining the sale or advertisement of any merchandise by such persons. . . .*

*c) Granting such other relief as may be required until the person files the statement or report, or obeys the subpoena.*

9. Iowa Code § 714.16 (7) provides, in pertinent part:

*Except in an action for the concealment, suppression, or omission of a material fact with intent that others rely upon it, it is not necessary in an action for reimbursement or an injunction, to allege or to prove reliance,*

*damages, intent to deceive, or that the person who engaged in an unlawful act had knowledge of the falsity of the claim or ignorance of the truth.*

10. In describing remedies under the Consumer Fraud Act, Iowa Code

§ 714.16 (7) provides in pertinent part as follows:

*If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys ... which have been acquired by means of a practice declared to be unlawful by this section ...*

*In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person. In addition, on the motion of the attorney general or its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a ... permanent injunction issued under authority of this section.*

**ADDITIONAL FACTUAL BACKGROUND**

11. In an attempt to resolve the Attorney General's investigation into America Workshops' conduct in obtaining product orders of about \$200 and \$300 from a vulnerable elderly Iowa woman within the span of a few months,<sup>1</sup> America Workshops sent the letter appended at Attachment I to the Attorney General. It was dated May 23, 2012 and was received by the Attorney General on June 7, 2012. It was accompanied by

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<sup>1</sup> This earlier investigation also required an application to enforce, which appears in the Polk County District Court's records at docket number EQCE071342. That earlier application, and the other contents of that file, are incorporated herein.

other materials purporting to respond to a Consumer Fraud Act Civil Investigative Demand that had been served on America Workshops on December 29, 2011.

12. Despite the assurances in Attachment I to the effect that all Iowa customers would be placed on a Do Not Call List, America Workshops directed another solicitation call to the above-referenced elderly Iowa woman on August 30, 2012. The Attorney General has a recording of that solicitation call.

13. To investigate Respondents' conduct relating to the August 30, 2012 call, the Attorney General served a Consumer Fraud Act subpoena on each Respondent by registered mail, as permitted by Iowa Code § 714.16 (3) – (5). The subpoena is appended at Attachment II. The registered mail Domestic Return Receipts indicating that service upon each Respondent has been performed in the manner required by Iowa Code § 714.16 (5)(b) was received by the Attorney General on September 13, 2012. The subpoena required a response on or before September 28, 2012, but neither Respondent has provided any response to date.

14. Respondent should be ordered to provide a full and proper response to the subpoena, and/or be restrained from the sale or advertisement of any merchandise in Iowa, pursuant to Iowa Code § 714.14 (6).

15. Neither all nor any part of the application for injunctive relief herein has been previously presented to and refused by any court or justice. Iowa R. Civ. P. 1.1504.

16. In an action by the state, no security shall be required of the state. Iowa R. Civ. P. 1.207.

## PRAYER

The Attorney General prays the Court grant the following relief.

A. Pursuant to Iowa Code § 714.16 (6), order each Respondent to provide a full and proper response to the subpoena, and enjoin Respondents from engaging in any sales or advertisement of any merchandise in Iowa, through telemarketing or otherwise, until such time if ever as a full and proper response to the subpoenas has been made.

B. Pursuant to Iowa Code § 714.16 (11), enter judgment against Respondents for attorney fees, state's costs and court costs.

C. Retain jurisdiction as necessary to ensure full compliance with the pertinent provisions of the Consumer Fraud Act and with the Court's orders.

D. Grant such additional relief as the Court deems just and equitable.

Respectfully submitted,

THOMAS J. MILLER  
Attorney General of Iowa



Steve St. Clair  
Assistant Attorney General  
Hoover State Office Building, 2<sup>nd</sup> Fl.  
1305 E. Walnut  
Des Moines, Iowa 50319  
Telephone: 515-281-3731  
Fax: 515-281-6771  
[SteveSt.Clair@iowa.gov](mailto:SteveSt.Clair@iowa.gov)

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12 JUN -7 PM 3:23

CONSUMER PROTECTION DIV.

**AMERICA  
WORKSHOPS LLC**

MAY 23, 2012

IOWA ATTORNEY GENERAL  
CONSUMER PROTECTION DIVISION  
1305 EAST WALNUT  
DES MOINES, IOWA 50319

To Whom It May Concern:

America Workshop LLC is not a charity or donation. We are a full profit organization. The company code-017 retail. We employ about fifteen people. Each employee only takes the order over the phone. They do not sell anything. The customer has the choice. They must agree and participate in the transaction fully before the order is verified or shipped. The entire process take two calls to the customer. Each call is done on a separate line.

We do not at anytime use the words handicap or disabled here at America Workshop LLC. America Workshop LLC is not affiliated with any other company. We have one owner. We also added all our Iowa customers to the Do Not Call List on February 15, 2012. Any questions, comments, or concerns please feel free to give us a call.

Sincerely-  
America Workshops LLC.



3001 W. Indian School  
Suite 11  
Phoenix, AZ 85017  
United States

PHONE (602) 682-7332  
FAX (602) 714-6902  
WEB SITE [americaworkshops.ethicalaz.com](http://americaworkshops.ethicalaz.com)

**ATTACHMENT I**







6. *Indicate the extent to which America Workshops, LLC conducts discrete "drives" in connection with telemarketing calls to Iowans, and, if so, describe in detail the timing of the various "drives."*

In lieu of appearing, Respondent may provide the above-described materials and/or information to the undersigned at or before the time and date set forth, or at or before such alternative time and date as may be arranged between the subpoenaed entity and the undersigned.

Witness my hand hereunto affixed this 6<sup>TH</sup> day of September, 2012.

TOM MILLER, ATTORNEY GENERAL OF IOWA

By: 

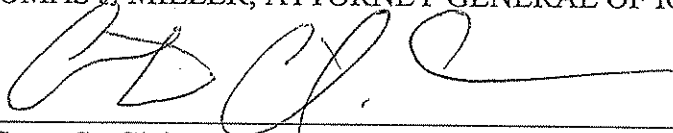
Steve St. Clair  
Assistant Attorney General  
Hoover Building, 2<sup>nd</sup> Floor  
1305 East Walnut  
Des Moines, Iowa 50319  
Phone: (515) 281-5926  
Email: steve.stclair@iowa.gov

NOTICE OF INTENT TO PROCEED

Service of this subpoena and Notice of Intent to Proceed on you will also constitute your only notice, pursuant to Iowa Code § 714.16(6), that your failure to comply with this subpoena may result in application to the District Court for an order compelling a response to the subpoena and, additionally, for other relief provided by Iowa Code § 714.16(6).

Witness my hand hereunto affixed this 6<sup>TH</sup> day of September, 2012.

THOMAS J. MILLER, ATTORNEY GENERAL OF IOWA

By: 

Steve St. Clair  
Assistant Attorney General